

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

THE GATEWAY DEVELOPMENT GROUP, INC.,

Debtor.

Chapter 7

Case No.: 21-22304-rdd

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HOWARD MAGALIFF, TRUSTEE and
JAMES CARNICELLI, JR.,

Plaintiffs,

vs.

Adv. Proc. No.: 21-07093-rdd

JOHN J. FARERI, JULIE FARERI, and
CHRISTOPHER SHESKIER,

Defendants.
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**ORDER ON MOTION FOR LEAVE TO AMEND THE
AMENDED COMPLAINT**

Upon the Motion for Leave to Amend the Amended Complaint (the “Motion”), dated February 28, 2022 [Dkt. 18], of Plaintiff James Carnicelli, Jr. (“Carnicelli”) and the papers submitted therewith in support thereof, including the Exhibits annexed thereto, including the Proposed Second Amended Complaint, seeking entry of an order pursuant to Federal Rule of Bankruptcy Procedure 7015, incorporating Federal Rule of Civil Procedure 15(a)(2), granting the Motion; and due and sufficient notice of the Motion having been given; and upon John J. Fareri’s (“Fareri”) Opposition to the Motion [Dkt. 21]; and upon Carnicelli’s Reply Memorandum in further support of the Motion [Dkt. 22]; and upon the record of the hearing held by the Court on the Motion on March 15, 2022 (the “Hearing”), which is incorporated herein; and the Court having jurisdiction over the Motion under 28 U.S.C. §§ 157(a)-(b) and 1334(b); and, after due deliberation and for the reasons stated by the Court in its bench ruling at the Hearing, good and

sufficient cause appearing for the relief granted herein, it is hereby ORDERED, that:

1. The Motion is DENIED with prejudice only to the extent that the Motion sought leave to plead a cause of action for tortious interference with Carnicelli's right to receive 49% of the profits that The Gateway Development Group, Inc. should have been paid for work it performed on projects for entities owned by Fareri; and
2. The Motion is otherwise GRANTED in all respects.

Dated: White Plains, New York
March 21, 2022

/s/Robert D. Drain

HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE